

**MISSISSIPPI COURT OF APPEALS
NO. 2015-CA-00107-COA**

NATHAN SINKO

APPELLANT

VS.

STATE OF MISSISSIPPI

APPELLEE

APPEAL FROM THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

APPELLANT'S RECORD EXCERPTS

**JIM WAIDE, MSB NO. 6857
WAIDE & ASSOCIATES, P.A.
332 NORTH SPRING STREET
TUPELO, MS 38804-3955
POST OFFICE BOX 1357
TUPELO, MS 38802-1357
(662) 842-7324 / TELEPHONE
(662) 842-8056 / FACSIMILE
waide@waidelaw.com / EMAIL**

**HONEY H. USSERY, MSB NO. 102782
ATTORNEY AT LAW
426 SOUTH LAMAR BLVD., SUITE 13
OXFORD, MS 38655
(662) 638-3519 / TELEPHONE
(662) 638-3503 / FACSIMILE
hbusser@ gmail.com / EMAIL**

ATTORNEYS FOR APPELLANT

TABLE OF CONTENTS

Bates No.

TRIAL COURT DOCKET	[1-4]
ORDER APPEALED FROM	[5]
ORDER EXTENDING TIME FOR TAKING OF APPEAL THROUGH JANUARY 24, 2015	[6]
NOTICE OF APPEAL	[7-8]
CERTIFICATE OF SERVICE	[9]

**IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI
SIXTEENTH CIRCUIT COURT DISTRICT**

NATHAN SINKO

PETITIONER

VERSUS

NO. 2014-0423-CVH

STATE OF MISSISSIPPI

RESPONDENT

LIST OF CLERK'S PAPERS

PAPER FILED

PAGE # ON APPEAL

Certified Copy of Civil Docket Sheet	1
"Memorandum" also labeled "Order" entered as Post-Conviction Relief Petition, Filed by Nathan Sinko	2
Order Directing Reporter to File Transcript	4
Petition for Post-Conviction Relief to set aside Judgment and Sentence, Affidavit of Nathan Sinko, Exhibits A-F and Certificate of Service. (filed by Honey Ussery, MSB # 102782)	5
Order Denying the Petition for Post-Conviction Relief and Directing Clerk to include Criminal file in its entirety in the event of filing of Appeal to Ms Supreme Court	22
Plaintiff's Motion to Extend Time for Taking of Appeal	23
Order Granting Motion to Extend Time for Taking of Appeal	28
Transcript of Arraignment and Guilty Plea from May 2 & 3, 2012	29
Notice of Attorney Appearance by Jim Waide MSB #6857 w/ Certificate of Service	53
Notice of Appeal to the MS Supreme Court with Certificate of Service	55

Designation of Record from Petitioner's Attorney of Record with Certificate Of Service	57
Certificate of Compliance with Rule 11(b)(1) with Certificate of Service	59
Certified Copy of Criminal Docket Sheet: Cause #2011-0269-CRH	61
Indictment issued	62
Proof of Service of Indictment	64
Entry of Appearance as Counsel by Daniel M. Waide MSB #103543	65
Appearance Bond (\$55,000.00) with Arrest and Booking Detail Page	66
Defendant Nathan Sinko's Discovery Request to Plaintiff, State of Mississippi with Certificate of Service	68
Waiver of Arraignment and Entry of Plea	70
Scheduling Order: Waives Arraignment, Enters plea of not guilty, sets bond for \$55,000, Setting motion date 12/16/11, Plea Date 1/23/12, trial date 2/1/13	71
Court Administrator's Notice of Trial Setting 2/1/13	72
Defendant Nathan Sinko's Second Discovery Request to Plaintiff, State of Mississippi with Certificate of Service	73
Motion to Substitute Counsel with Certificate of Service	75
Entry of Appearance by Mark Cliett, MSB #9950 with Certificate of Service	77
Order of Entry of Appearance by Mark Cliett & relieving Daniel M Waide	79
Order Transferring Case for Cause from Judge Lee S. Coleman to Judge Lee J. Howard	80
Order of Continuance to May 3, 2012 at 9:00 a.m.	81
Court Administrator's Notice of Trial Setting 5/3/12	82
Subpoena Requests from State	83
Petition to Enter Plea of Guilty	84
Order Guilty Plea: Count 1, Sentencing Deferred	88

Order Guilty Plea: Count 2, Sentencing Deferred	90
Presentence Investigation	92
Sentencing Order: Count 1	97
Sentencing Order: Count 2	100
Retire to Files Order: Count 3	101
Defendant Information Sheet	102
Notice of Criminal Disposition to MDOC	103
Notice of Criminal Disposition to MDOC (Amended)	104
Statement of Cost for Appeal to MS Supreme Court	105
Clerk's Certificate	106

Clerk's Papers

(1) Volumes

NATHAN SINKO
VS.

Counsel for Plaintiff
Jim Waide
Counsel for Defendant

STATE OF MISSISSIPPI
POST CONVICTION RELIEF

JUDGE Lee J. Howard

=====

DATE

ORDERS, JUDGMENTS, ETC.

9/23/14 Petition for Motion for Post conviction Releif listed as
"Order"

10/31/14 Order Directing Reporter to file Transcript, Copy sent to 190 840
Cindy Zelinka & Nathan Sinko

11/13/14 PETITION FOR POST-CONVICTION RELIEF TO SET ASIDE JUDGMENT &
SENTENCE w/ Exhibits A-F & Cert of Service

12/08/14 Order dismissing Petition without Necessity of a Hearing, 191 509
Copy sent to Attorney for Petitioner

1/14/15 Order Granting Motion to Extend Time for Taking of Appeal 191 651

1/14/15 Motion to Extend Time for Taking of Appeal with Exhibits

1/20/15 Copies of the Notice of Appeal, Order(s) from which the
Appeal is being taken and docket entries forwarded to the
Supreme Court Clerk, With Letter sent w/ Notice of Appeal.
Copy sent to Jim Waide

1/20/15 Court Reporter's Transcript of Arraignment and Guilty Plea
on Criminal cause #2011-0269-CRH

1/20/15 Notice of Attorney Appearance with Cwert of Service

1/20/15 Notice of Appeal with Cert of Service with Copy of Check
#14517 in the Amount of \$200.00 made out to MS Supreme Court
For filing Fee.

1/26/15 Form from MS Supreme Court requesting Info that was already
sent on 1/20/15

1/28/15 Notice from Supreme Court assigning #2015-TS-00107-COA as
Supreme Court File Number

2/02/15 Designation of the Record and certificate of service, filed.

2/05/15 Clerk's Estimate of Cost for Appeal

2/09/15 Letter from MS Supreme Court Concerning Cert of Compliance

2/09/15 Certificate of Compliance with Rule 11(B)(1) with Cert of
Service

2/09/15 Check #14570 in the amount of 370.00 for cost of appeal.

2/13/15 Letter to Cindy Zelinka as notice of due date of Transcript
4/7/15 from MS Supreme Court

STATE OF MISSISSIPPI
OKTIBBEHA COUNTY

I, Glenn Hamilton, Clerk of the Circuit Court
in and for said County and State, certify that
the foregoing is a true and correct copy of
the original of said instrument, as the same
appears of record in my office.
Given under my hand and official seal this
the 2nd day of April 2015
By Glenn Hamilton Circuit Clerk
Glenn Hamilton D.C.



509

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI
IN VACATION, 2014

NATHAN SINKO

PETITIONER

VS.

CAUSE NO. 2014-0423-CVH

STATE OF MISSISSIPPI

RESPONDENT

ORDER

Came on to be heard this day the above styled and numbered post conviction matter in which the Petitioner has filed a motion to amend the sentence imposed on the Petitioner by this Court in criminal cause number 2011-0269-CRH. The Court, after reviewing the court file and having reviewed the Petitioner's sentencing order; is of the opinion that the petition is not well taken and that no hearing is necessary.

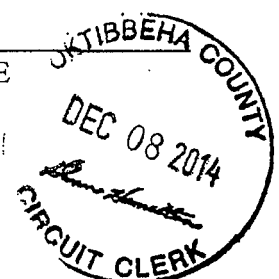
Under Mississippi law, "a reduction or reconsideration of a sentence by a judge must occur prior to the expiration of the sentencing term." *Warden v. State*, 36 So. 3d 493, 496 (Miss. App. 2010). Therefore, this Court lacks the authority to amend any aspect of Petitioner's sentence at this time. *Id.* Further, the Petitioner has failed to establish any claim which would warrant relief under Mississippi Code Annotated § 99-39-5.

IT IS THEREFORE ORDERED, that this petition be, and the same is hereby dismissed without the necessity of a hearing. The Circuit Clerk is directed to send a copy of this Order to all parties, including the Petitioner at his last known place of incarceration.

SO ORDERED, this the 8th day of Dec, 2014.

MB 191
PS 509


CIRCUIT JUDGE



- 22 -

651

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

NATHAN SINKO

PETITIONER

VS.

CAUSE NO. 2014-0423-CVH

STATE OF MISSISSIPPI

RESPONDENT

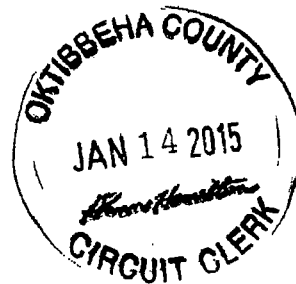
ORDER GRANTING MOTION TO EXTEND TIME FOR TAKING OF APPEAL

Finding excusable neglect, Nathan Sinko is permitted to file a notice of appeal within ten (10) days of the date of this Order.

ORDERED this the 14th day of Jan, 2015.


CIRCUIT COURT JUDGE

MB191
F8651



IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

NATHAN SINKO

PETITIONER

VS.

CAUSE NO. 2014-0423-CVH

STATE OF MISSISSIPPI

RESPONDENT

NOTICE OF APPEAL

PLEASE TAKE NOTICE that Petitioner Nathan Sinko hereby appeals from the Order dated and filed on December 8, 2014 denying post-conviction relief without a hearing. This appeal is timely in light of this Court's Order granting Petitioner's Motion to Extend Time for Taking an Appeal on January 14, 2015, extending the time to appeal through and including January 24, 2015.

This appeal is to the Mississippi Supreme Court and to the Mississippi Court of Appeals.

Respectfully submitted, this the 15th day of January, 2015.

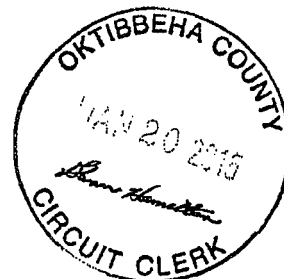
WAIDE & ASSOCIATES, P.A.

BY: _____

Jim Waide
JIM WAIDE
MS BAR NO.: 6857

WAIDE & ASSOCIATES, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 1357
TUPELO, MS 38802
Telephone: 662/842-7324
Facsimile: 662/842-8056

Attorneys for Plaintiff-Appellant



CERTIFICATE OF SERVICE

I, Jim Waide, attorney for Plaintiff, do hereby certify that I have this day forwarded, via U.S. Mail, First Class Mail, postage prepaid, a true and correct copy of the above and foregoing to the following:

Mark Jackson, Assistant District Attorney
107 West Main Street
Starkville, MS 39759

Forrest Allgood, Esq.
Office of the District Attorney
P.O. Box 1044
Columbus, MS 39703-1044

Honorable Lee J. Howard
Circuit Court Judge
P.O. Box 1679
Starkville, MS 39760

THIS the 15th day of January, 2015.


JIM WAIDE



CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing pleading or other paper with the Clerk of the Court using the MEC system which sent notification of such filing to the following:

James M. Hood, III, Esq.
John Robertson Henry, Jr., Esq.
Office of the Attorney General
450 High Street
Post Office Box 220
Jackson, MS 39205-0220
jhenr@ago.state.ms.us

Via U.S. Mail:

Honorable Lee J. Howard
Circuit Court Judge
P.O. Box 1679
Starkville, MS 39760

Forrest Allgood, Esq.
Mark Jackson, Esq.
Assistant District Attorney
P.O. Box 1044
Columbus, MS 39703-1044

THIS, the 2nd day of June, 2015.

/s/ Jim Waide
JIM WAIDE